

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

MICHAEL L. WHITNEY,

Plaintiff,

v.

Civ. No. 19-566 GJF

ANDREW SAUL, *Commissioner of the
Social Security Administration,*

Defendant.

ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS

This matter is before the Court upon Plaintiff Michael L. Whitney’s “Motion to Proceed *in Forma Pauperis* with Financial Affidavit Pursuant to 28 U.S.C. § 1915” [ECF 2] (“Motion”). In this Motion, Plaintiff asserts that he is unable to prepay fees and costs in this case and asks to proceed without the advance payment thereof.

The Court concludes that the Motion should be denied. In making this determination, the Court notes that it has the discretion to “authorize the commencement . . . of any suit . . . without prepayment of fees or security therefore, by a person who submits an affidavit that includes a statement of all assets [the person] possesses [and] that the person is unable to pay such fees or give security therefore.” 28 U.S.C. § 1915(a)(1). A review of Plaintiff’s affidavit, however, reveals that Plaintiff is currently employed and is single with no dependents. Furthermore, Plaintiff has a net monthly income of \$2,439¹ and owns a 2013 Nissan Rouge, currently worth approximately \$4,000. And Plaintiff, by his own estimates, spends less than he earns: his estimated monthly expenses are \$2,266—which includes \$600 in monthly grocery expenses. Although Plaintiff claims to have no cash in the bank, the Court finds that Plaintiff’s financial situation

¹ Plaintiff receives disability payments of \$1,975 per month and earns \$464 per month as a caregiver.

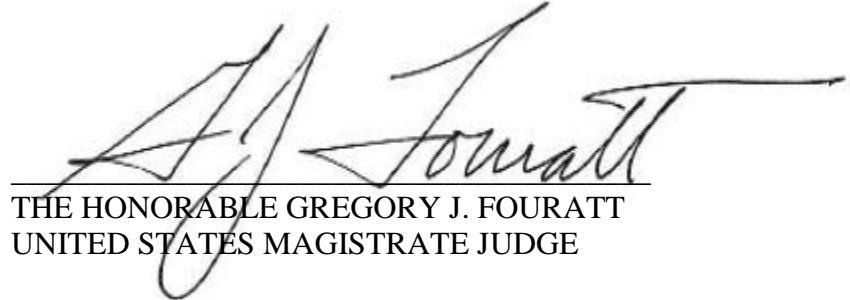
places him outside the category of those whom the Court excuses from prepaying the \$400 filing fee.

Consequently, this Court finds and concludes that Plaintiff has not established that he is unable to pay the required filing fee or that doing so will cause him substantial hardship.

IT IS THEREFORE ORDERED that Plaintiff's Motion is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff shall pay the Court's filing fee not later than July 16, 2019. Plaintiff is cautioned that failure to comply may result in dismissal of this case without prejudice.

SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE